

EXHIBIT

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FILED
12/18/2018 1:47 PM
Donna Kay McKinney
Bexar County District Clerk
Accepted By: Alexandra Johnson

NO.: 2018CI21574

JOSEFA Y. SANCHEZ § IN THE DISTRICT COURT
§
VS. § 288TH JUDICIAL DISTRICT
§
WAL-MART STORES TEXAS, LLC § BEXAR COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, WAL-MART STORES TEXAS, LLC, Defendant in the above numbered and entitled cause of action, and files this Original Answer to Plaintiff's Original Petition and for support thereof would respectfully show unto the Court as follows:

I.

Defendant asserts denials, under Rule 92 of the Texas Rules of Civil Procedure, to each and every allegation contained in the said Petition, and demands strict proof thereof.

II.

Pleading further and without waiving the foregoing, Defendant specifically reserves the right to amend this Answer, as is its right under the Texas Rules of Civil Procedure.

III.

Pleading further and without waiving the foregoing, Defendant asserts that if Plaintiff suffered injuries as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, that said injuries were caused in whole or in part by Plaintiff's own negligence or responsibility. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available pursuant to Chapter 33 of the Texas Civil Practices and Remedies Code.

IV.

Pleading further and without waiving the foregoing, Defendant asserts that any damages allegedly suffered by Plaintiff as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, were exacerbated by Plaintiff's failure to mitigate said damages. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to the Texas Civil Practices and Remedies Code.

V.

Pleading further and without waiving the foregoing, Defendant asserts that the incident in question was proximately caused or solely proximately caused by the negligent and/or wrongful conduct of persons or third parties outside the control of this Defendant. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to Chapter 33 of the Texas Civil Practices and Remedies Code.

VI.

Pleading further and without waiving the foregoing, Defendant asserts that Plaintiff's recovery of medical or health care expenses, if any, is limited to the amount actually paid or incurred by or on behalf of Plaintiff. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to §41.0105 of the Texas Civil Practices and Remedies Code.

VII.

Pleading further and without waiving the foregoing, Defendant asserts that Plaintiff may have had pre-existing injuries and/or conditions to Plaintiff's body, and if Plaintiff was injured as a result of the alleged incident, such injury is due, in whole or in part, to these pre-existing injuries or conditions.

VIII.

Pleading further and without waiving the foregoing, Defendant would show that Plaintiff's alleged injuries and damages are the result of subsequent injuries or conditions which were a proximate cause, or producing cause, or the sole producing cause of Plaintiff's injuries and/or damages and not the result of any negligence on the part of this Defendant.

PREMISES CONSIDERED, WAL-MART STORES TEXAS, LLC prays that Plaintiff take nothing by this lawsuit, and that Defendant be allowed to go hence without day and recover all of their costs and attorneys' fees, and such other and further relief, both special and general, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

Daw & Ray
A Limited Liability Partnership

/s/ Willie Ben Daw, III
Willie Ben Daw, III; TBN: 05594050
Email: wbdaw@dawray.com
James K. Floyd; TBN: 24047626
Email: jfloyd@dawray.com
14100 San Pedro Ave., Suite 302
San Antonio, Texas 78232
(210) 224-3121 Telephone
(210) 224-3188 Facsimile

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record by Electronic Service on this 18th day of December, 2018.

Andrew E. Toscano
GENE TOSCANO, INC.
846 Culebra, Ste. 104
San Antonio, Texas 78201-6244

Email: atoscano@genetoscano.com

/s/ *Willie Ben Daw, III*
Willie Ben Daw, III